

46 Am. Jur. 2d Judges § 210

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Judges

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IX. Disqualification to Act in Particular Case

E. Effect of Disqualification

§ 210. Retroactive effect of disqualification of judge

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  56

When a judge voluntarily self-recuses, not all prior orders must be set aside.¹ Absent a showing of actual bias or a statutory basis for disqualification, proceedings conducted prior to a motion to disqualify or voluntary recusal remain valid.² Judicial acts taken before recusal may not later be set aside unless the litigant shows actual impropriety or actual prejudice; an appearance of impropriety is not enough to poison the prior acts.³

Actions of a judge prior to recusal which were upheld include the denial of a motion to strike an answer;⁴ the entry of orders granting summary judgment and severance;⁵ and entry of an order based on the parties' stipulation.⁶

A successor judge may reconsider prior factual or legal rulings of a disqualified judge,⁷ but not where the litigant's motion for reconsideration was filed beyond the statutory time permitted for such motion.⁸

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Footnotes

- 1 [Urdiales v. Concord Technologies Delaware, Inc.](#), 120 S.W.3d 400 (Tex. App. Houston 14th Dist. 2003).
- 2 [Ulrich v. Estate of Zdunkiewicz](#), 8 A.D.3d 1014, 778 N.Y.S.2d 582 (4th Dep't 2004).
- 3 [In re Gerald R.M.](#), 12 A.D.3d 1192, 785 N.Y.S.2d 256 (4th Dep't 2004).
- 4 [Ulrich v. Estate of Zdunkiewicz](#), 8 A.D.3d 1014, 778 N.Y.S.2d 582 (4th Dep't 2004).
- 5 [Urdiales v. Concord Technologies Delaware, Inc.](#), 120 S.W.3d 400 (Tex. App. Houston 14th Dist. 2003).
- 6 [State ex rel. T.M.](#), 2003 UT App 191, 73 P.3d 959 (Utah Ct. App. 2003).
- 7 [Blackpool Associates, Ltd. v. SM-106, Ltd.](#), 839 So. 2d 837 (Fla. 4th DCA 2003).

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[Weiss v. Berkett](#), 907 So. 2d 1181 (Fla. 3d DCA 2005).

As to authority of successor judges, see §§ [29](#) to [35](#).

As to authority of judge to reconsider rulings by another judge, see §§ [36](#) to [41](#).

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